



U.S. Department of Justice

United States Attorney  
Southern District of New York

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86 Chambers Street  
New York, New York 10007

December 19, 2019

**BY ECF**

The Honorable P. Kevin Castel  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 1020  
New York, NY 10007

*Re: Lambda Legal Defense and Education Fund, Inc. v. U.S. Dep't of Health and Human Services*, No. 19 Civ. 4707 (PKC)

Dear Judge Castel:

This Office represents Defendant United States Department of Health and Human Services (“HHS”) in the above-referenced case brought by Plaintiff Lambda Legal Defense and Education Fund, Inc. (“Plaintiff”), pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. We write on behalf of both parties to provide the Court with a status update, pursuant to the Court’s September 23, 2019 Order (Dkt. No. 21).

Since the September 23, 2019 Initial Pretrial Conference, HHS has adhered to the production schedule outlined in the parties’ September 16, 2016 joint letter (Dkt. No. 19). Specifically, since the Initial Pretrial Conference, HHS has processed at least 500 pages per month and provided three interim monthly releases of responsive documents. Together with HHS’s first production, HHS has processed a total of 2,137 pages of documents, and has produced 1,797 pages, either in whole or in part, to Plaintiff. The balance of reviewed documents were either nonresponsive (317 pages) or subject to review by other agencies (23 pages).

Given the breadth of Plaintiff’s requests and the volume of potentially responsive documents—close to 100,000 pages—HHS has reiterated to Plaintiff that it is open to discussions to further refine the search parameters, in an effort to expedite Plaintiff’s requests.<sup>1</sup> Plaintiff is analyzing the pages produced thus far to identify areas where the searches could be narrowed, and the parties will revisit any narrowing proposals as processing continues.

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<sup>1</sup> As set forth in the parties’ September 16, 2019 joint letter, HHS has run initial searches and located potentially responsive material for two of Plaintiff’s three FOIA requests. The parties agreed to defer processing the third request to focus on the other two requests.

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We thank the Court for its consideration.

Respectfully submitted,

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cc: All counsel of record (via ECF)